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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/654,149	09/01/2000	Peter Guthmann	3916/59156-082	5899
7590	04/02/2004			EXAMINER NGUYEN, JIMMY T
Robert E Muir Esq Hush & Eppenberger LLC 401 Main Street Suite 1400 Peoria, IL 61602			ART UNIT 3725	PAPER NUMBER 17
			DATE MAILED: 04/02/2004	

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/654,149

Applicant(s)

GUTHMANN ET AL.

Examiner

Jimmy T Nguyen

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) Responsive to communication(s) filed on 24 July 2003.  
2a) This action is FINAL.                            2b) This action is non-final.  
3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) Claim(s) 1,3-6,8-13,15,16 and 18-24 is/are pending in the application.  
4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
5) Claim(s) 18-24 is/are allowed.  
6) Claim(s) 1,3-6,8-13,15 and 16 is/are rejected.  
7) Claim(s) \_\_\_\_\_ is/are objected to.  
8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) The specification is objected to by the Examiner.  
10) The drawing(s) filed on 28 August 2002 is/are: a) accepted or b) objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) All    b) Some \* c) None of:  
1. Certified copies of the priority documents have been received.  
2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) Notice of References Cited (PTO-892)  
2) Notice of Draftsperson's Patent Drawing Review (PTO-948)  
3) Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.  
5) Notice of Informal Patent Application (PTO-152)  
6) Other: \_\_\_\_\_.

***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on July 02, 2003 has been entered.

***Claim Objections***

Claim 1 is objected to because of the following informalities:

Line 11, the word “a frontal” should be changed to --- the frontal ---.

Appropriate correction is required.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1, 3-6, 8-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement.

Regarding claims 1, 6, and 11, the specification does not disclose “a tensioning arm provided with guide rollers and a pivoting arm”. The specification discloses a tensioning arm provided with only guide rollers (14) (see page 4, lines 2-3), whereas a pivoting arm is connected to the tensioning arm to rotate therewith (see page 4, lines 7-8).

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Regarding claim 1, line 9 and claim 6, lines 9-10, the specification does not support *an end* of the bell crank is pivotally mounted on a side wall of the baler's tailgate. The specification discloses that the bell crank is a double-armed bell crank (25) (page 4, lines 14-15), wherein the bell crank's *fulcrum* is pivotally mounted on a side wall of the baler's tailgate (fig. 1).

Regarding claim 1, line 11, the specification does not support "a latching mechanism on the frontal part of the housing". The specification discloses the latching mechanism/latch (28) is located on the rear part of the housing (see fig. 3).

Regarding claim 1, line 12, the specification fails to provide support for the term: "a latching mechanism".

Regarding claim 4, line 2, the specification does not support a fixed stop is arranged on the tailgate below the second arm, which is at the location described in the preceding claim 1. Figure 1 shows the fixed stop (31) is arranged adjacent the first arm of the location as described in the preceding claim 1.

Regarding claim 9, line 2, the specification does not support a fixed stop is arranged on the tailgate below the second arm, which is at the location described in the preceding claim 6. Figure 1 shows the fixed stop (31) is arranged adjacent the first arm of the location as described in the preceding claim 6.

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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Claims 1, 3-6, 8-16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 1, line 10, and claim 6, line 11, it is unclear what the structural interrelationship between a second arm and other elements of the claim (i.e. the first arm, the hydraulic cylinder, ..).

Regarding claims 4 and 9, it is unclear whether a fixed stop or the tailgate is arranged below the second arm.

#### *Allowable Subject Matter*

Claims 18-24 are allowed.

The following is an examiner's statement of reasons for allowance:

The patent to Gunther et al. (hereinafter "Gunther") (US 4,770,093) discloses a round baler having a tensioning arm (58); a pivoting arm (64); and a cylinder (68). Gunther does not disclose a bell crank, and a latch as claimed.

The patent to Rutschilling (US 4,389,930) discloses a round baler having a cylinder (44); and a latch (58), a bell crank (50) in a structural arrangement as claimed. Rutschilling does not disclose a tensioning arm and a pivoting arm as claimed.

Both of the above references do not ostensibly disclose, fairly suggest or teach a reason to combine references to meet the combination of affirmatively recited limitations.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue

fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The prior art listed on the attached PTO 892 are cited to show relevant locking mechanism in round balers.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jimmy T Nguyen whose telephone number is (703) 305-5304. The examiner can normally be reached on Mon-Thur 8:00am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Allen Ostrager can be reached on (703) 308-3136. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JTNguyen  
March 24, 2004

  
ALLEN OSTRAGER  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 3700